

York County Agricultural Land Preservation Board
118 Pleasant Acres Road Suite F
York, Pennsylvania 17402
717-840-7400
www.YorkCountyPa.gov

Dear Landowner:

Enclosed please find the information you requested regarding the York County Conservation Easement Program. Please read this information carefully. Review the program requirements in order to submit a qualifying application. Review the Deed of Easement with your legal counselor to understand the restrictions that will be placed upon your farm deed, should you decide to participate with the Conservation Easement Program. Please review with your tax advisor, the implications of this income.

During 2011, the York County Ag Land Preservation Board made changes to the York County Conservation Easement Program. Revisions were made to the eligibility criteria for application to the program, as well as, the ranking system. Please find enclosed those revisions. For questions relating to your enrollment in your Agricultural Security Area (ASA), please contact your township office. For questions relating to your conservation plan, please contact the York County Conservation District at 717-755-2966, Ext 106, or, you may contact the USDA-Natural Resource Conservation Service at 755-2966, Ext 3.

Please note, the revisions now allow for the continuous sign-up for application to the Conservation Easement Program. Resubmission of the easement application is necessary only when a change has occurred to the farm acreage, land use, ownership, or farm operator. The application must be updated each year ONLY for the annual gross farm income to maintain eligibility. With continuous sign-up, applications may be received throughout the year, and once deemed complete, will be reviewed for eligibility and ranking. Applicants will receive results within 120 days of submitting a complete application. Farmland ranking scores can be found posted in the Ag Land Preservation Board Program Office. Farms will be selected for appraisal for easement purchase based upon score and availability of easement funds throughout the year. Please note a current cap of \$4,500 per acre applies to all easement offers. It is a landowner's responsibility to provide clear title prior to preservation. Therefore, please discuss your desire to preserve your farm with your lenders before applying. Your lender must agree with your desire to preserve your farm.

If you have any questions about this informational packet, please do not hesitate to contact our office. **Landowners are strongly encouraged to make an appointment to discuss the easement program, prior to submitting an easement application.** Thank you again for your inquiry about this vital program to protect one of York County's most valuable resources, our productive farmlands and agricultural heritage.

Thank you;
Patty McCandless, Director

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YORK COUNTY AGRICULTURAL LAND PRESERVATION PROGRAM

WHAT IS AN AGRICULTURAL CONSERVATION EASEMENT?

An agricultural conservation easement is the landowner's right to prevent the development, or the improvement of the land for any purpose other than agricultural production. When conservation easements are sold to a county land preservation board it gives the county the right to say "no" to development.

HOW WOULD PURCHASING AGRICULTURAL CONSERVATION EASEMENTS PRESERVE AGRICULTURE?

It would provide compensation to farmers for the development value of farmland they preserve in long-term agricultural use. By selling conservation easements the farmer would receive the development value of the property without having to sell the farm for development. Purchasing agricultural conservation easements provides a long-term, permanent, solution to farmland conversion.

WHO DETERMINES THE VALUE OF AGRICULTURAL EASEMENTS?

State certified general real estate appraisers are retained by the county land preservation board to determine the market value and farmland value of the property. The difference between the market value and the farmland value is the conservation easement value. A farmer who disagrees with the appraiser has the right to retain another independent appraisal, at his expense. Differences between the two appraisals are recalculated according to a state formula worksheet which will allow the County Board to offer a second easement purchase offer, or the original offer. Note: A current cap of \$4,500 per acre is now in effect in York County.

HOW LONG ARE THE AGRICULTURAL CONSERVATION EASEMENTS FOR?

Today, agricultural conservation easements are sold in perpetuity, or, forever.

CAN A FARMER BUY BACK THE CONSERVATION EASEMENT?

The purpose of the easement program is the long term preservation of productive farmland. Today easements are purchased for perpetuity and are not intended to ever be sold or changed. In rare instances, a perpetual easement may be repurchased after a minimum of 25 years with State and County Board approval, provided the land is no longer feasible to farm. However, it is most reasonable to expect that all farms will remain feasible to farm, although the farm operation may be very different.

WHAT ARE THE FARMER'S RIGHT'S AFTER SELLING THE CONSERVATION EASEMENT?

The right to develop, or prevent development, is only one of the many rights in a property owner's "bundle of right's". Some of the right's in the bundle are the right to sell, lease, mortgage, leave to heirs, mineral rights, air, and surface right's, etc. After selling a conservation easement, the owner retains ownership of the farm and all other rights of ownership however; he must continue to use the property for commercial agriculture. The landowner also is permitted to construct one additional residential structure for himself, an immediate family member, or an employee of the farm.

Selling the conservation easement would not prevent the construction of buildings for agricultural purposes. Note all Township Ordinances regarding building and construction must be followed. Customary part-time and off-season rural enterprises may not be affected. In addition, coal, oil, and gas exploration, as well as, granting right-of-ways for utilities or transporting coal, oil, and gas would be unaffected by the easement sale. Granting a private right of way is strictly prohibited.

WHAT LAND IS ELIGIBLE FOR CONSERVATION EASEMENT SALE?

Only farmland duly enrolled within ASA's, containing at least 500 acres, and meeting the minimum eligibility criteria as established by the York County Conservation Easement Program Guidelines, are eligible. See the eligibility criteria. Enrollment is voluntary and requires permission by all the owners of record of the farmland tract, as well as, lender's.

Priorities for purchasing agricultural conservation easements are determined by the County and State Boards, but programs must consider the following: quality of farmland, likelihood of conversion within the next 20 years, proximity to preserved farmland tracts, stewardship of the land, and fair, equitable, objective and nondiscriminatory procedures.

DO I HAVE TO MAINTAIN A SOIL/WATER CONSERVATION PLAN ON THE FARM?

Yes. According to the Pennsylvania Clean Streams Law, a soil and water conservation plan is required on every tract of land involving the plowing or tillage of soil, as well as, any disturbance of soil. Today this requirement includes not only cropland, but pastureland and barnyard areas too. The York County Conservation Easement Program requires a conservation plan for application to the program with at least 50% of the plan implemented.

HOW IS FARMLAND PRESERVATION IN PENNSYLVANIA FUNDED?

Current funds for PA's Farmland Preservation Program come from the county, state, and federal sources. State Growing Greener Bonds and the 2 cent tax on every pack of cigarettes sold in Pennsylvania are some of the state sources. These funds provide the State portion of the funds to every county participating in the farmland preservation program. York County funds agricultural land preservation through its' general funds or bonds. Federal funds are also allocated for farmland preservation since the passage of the 1996 Federal Farm Bill, through the Federal Farm and Ranchlands Protection Program (FRPP).

WHO WILL ENSURE THAT THE DEED RESTRICTIONS ARE MAINTAINED?

The County Board has the primary responsibility of ensuring that the easement restrictions are maintained. Annual inspections are required by the State and are conducted by County Ag Land Preserve Staff. Landowners will be notified by certified mail prior to inspection visits. The State has the option of conducting additional inspections of easements, if a violation is suspected. The county must complete an annual inspection report on each farm which is submitted to the landowner(s) and the state, as well as a year-end report.

MUST I APPLY EVERY YEAR?

No. A new application is not required each year, unless a change in acreage, land use, ownership, or farm operator occurs. The application must be updated each year as to the annual gross farm income to maintain eligibility. Ongoing application reviews and updates will automatically occur throughout the year. Scores will be posted regularly in the Ag Land Preserve Board Office.

DO I PAY TAXES ON EASEMENT FUNDS?

Yes. The easement money you receive will be viewed as income by the IRS and capital gains tax must be declared for the year due. You are strongly encouraged to seek tax advice from your accountant or legal counsel to determine your tax liability.

If you have further questions about the York County Agricultural Conservation Easement Program, please contact Patty McCandless, Director at 717-840-7400, or write, York County Agricultural Land Preservation Board, 118 Pleasant Acres Road Suite F York, PA 17402

YORK COUNTY AGRICULTURAL LAND PRESERVATION PROGRAM APPLICATIONS REQUIREMENTS

Eligibility Criteria For Application To The Ag Land Preservation Program

The farmland tract must:

- 1. Be located within a duly recorded Ag Security Area (ASA) containing 500 acres, or more. This 500 acres is made up of farms owned by many different owners.**
- 2. Contain 50% of the soils in Capability Class I through IV, which must be available for agricultural production (cropland, hay land, pasture lands).**
- 3. At the time of application, the farmland tract must have a soil and water conservation plan, with at least 50% implementation. The plan must be current to the operator and address all areas of current commercial agricultural operation. Lands qualified as harvestable must be included in the conservation plan. Farms with significant conservation concerns may not be considered eligible.**
- 4. Prior to easement settlement, all conservation plans must address the entire easement area and satisfy the requirements of the PA Clean Streams Law.**
- 5. The farmland tract must produce a minimum of \$10,000.00 in annual gross farm income, averaged over a three year period, for eligibility to the easement program.**
- 6. Have a nutrient management plan in accordance with the PA Nutrient Management Law.**
- 7. Be at least 50 acres in size, unless:**
 - Parcels are adjacent to farmland permanently protected with a conservation easement.**
 - Produce a crop unique to that region.**

YORK COUNTY AGRICULTURAL LAND PRESERVATION PROGRAM APPLICATION PROCESS

1. Applications for easement consideration will be accepted on a continuous basis throughout the year. Complete applications will be reviewed for completeness and if deemed complete will be evaluated within a 120 day period. Following eligibility qualification, the application is then ranked and the score posted in the Ag Land Preserve Board Program Office. Note: Incomplete applications will be returned to the landowner with a letter of explanation with a checklist attached.
2. Each application will receive a farm visit by a representative of the county board to determine qualification for eligibility to the easement program.
3. Eligible applications are ranked using the Farmland Ranking System. Scores will be posted regularly in the Ag Land Preserve Board Program Office.
4. Farms will be selected for appraisal for easement purchase based upon score and availability of easement funds throughout the year.
5. High scoring farms are selected for appraisal to determine their agricultural conservation easement value. Please note: a current cap of \$4,500 per acre applies to all offers.
6. Landowners are contacted to review the appraisal report and the County Board's offer. The landowner has 30 days to consider the Board's offer and respond. The landowner may obtain an independent appraisal at their expense. State regulation permits the County to make a second offer based upon the Board's original offer and the landowner's appraisal. The Board may also re-offer the original easement purchase price as well.
7. Upon agreement of the easement offer, a sales agreement is signed by the landowner, County Board, and County Solicitor.
8. Following signature of the sales agreement, a title search is completed, lenders approval received, a legal description determined, surveys conducted if necessary, and a final summary report of the easement application is prepared.
9. Following the approval of the final summary report of the easement application, by the County Board and State Ag Land Preserve Board, the easement purchase funds are authorized and available for the easement purchase.
10. During the easement settlement, the landowner will sign a Deed of Agricultural Conservation Easement and will then receive the easement funds. The settlement agent for the County Board will record, in the York County Courthouse, the signed deed of agricultural easement, placing the easement restrictions on the farm deed.
11. A representative of the County Board will conduct an annual inspection visit on the preserved lands. Landowners will receive notice by certified mail prior to inspection visits.

For additional information, please call (717) 840-7400, or write, York County Agricultural Land Preservation Board Program Office, 118 Pleasant Acres Road Suite F, York, PA 17402.

YORK COUNTY AGRICULTURAL LAND PRESERVATION PROGRAM CHECKLIST OF APPLICATION REQUIREMENTS

Please see below the requirements you must complete in order to submit a complete easement application for the consideration of your farm for agricultural conservation easement purchase (preservation):

1. Complete the attached application. All lines must be completed. You may need assistance from the farm operator, if you are not the farmer. All owners of record (names on the deed) must sign the application.
2. Attach a photocopy of your recorded farm deed (s). If the farmland tract is owned by a Partnership, please provide the Partnership Agreement with the named officers.
3. Attach a copy of your complete conservation plan. Note: you may have to request a copy from your farmer, or request a conservation plan from the York County Conservation District. See Cooperator Form if you and your farmer determine no conservation plan exists for your farm.
4. Attach any additional documentation you feel necessary to provide crop or livestock production, farm income, capital improvements, conservation practices completed, etc.
5. Attach a map if you are not offering the entire farm for easement consideration. Note areas to be excluded from the easement.
6. Please sign and return the "USDA Authorization for Release of Records". A copy is provided for the landowner and the farm operator.
7. Following initial application, please contact the Program Office if changes to your farm deed or operation should occur. A current application results in a timely and accurate evaluation.
8. Retain this checklist to keep notes as to your application progress, information you have provided, as well as information remaining to be provided.
9. Additional Notes To Remember :

